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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re N.G., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

N.G.,

Defendant and Appellant.

D060280

(Super. Ct. No. JCM229312)

APPEAL from a judgment of the Superior Court of San Diego County, Dwayne K. Moring, Judge. Affirmed.

Following an adjudication hearing in July 2011, the juvenile court¹ found true allegations in a delinquency petition filed against defendant N.G. under Welfare and Institutions Code section 602 charging him with one count of burglary of an inhabited dwelling in violation of Penal Code sections 459, 460, and 667.5, subdivision (c)(21). At

¹ The Honorable Carlos O. Armour.

the disposition hearing, the court² adjudged N.G. a ward of the court, ordered him to comply with all terms of his probation, and placed him with his mother. This appeal followed.

FACTUAL BACKGROUND

A. The People's Case

The female burglary victim testified that on June 15, 2011, at around 3:50 p.m., she was at home alone on Baltimore Drive in her second-floor condominium when she heard very loud knocking on her front door. She looked through the small peephole in the door and saw two male teenagers she did not recognize. One was wearing a black shirt and black shorts or pants, and one was carrying a backpack. The pounding on her door continued and the doorbell was rung "very aggressively." She heard them move over to her kitchen window, and she heard one of the teenagers mumble, "They're not home," or something to that effect. She heard the kitchen window blinds being pushed and the screen being removed from the open window. As she entered the kitchen, she saw an arm and a shoulder coming through the window. The hand was wearing a black glove with white fingertips. She screamed and yelled, "What do you think you're doing?" Both of the teenagers then ran off.

A.P., a minor, testified that around 3:50 p.m. that same day, N.G. and J.E. came to his house, which is located about a block away from Baltimore Drive. N.G. was wearing a black T-shirt and black shorts. A.P. did not let them come inside his house because a

² The Honorable Dwayne K. Moring.

police helicopter was circling over the house. When A.P. said to N.G. and J.E., "Police helicopter," they both said, "Ooh," acted scared, and tried to hide their faces. N.G. left in one direction and J.E. went off in another.

B. The Defense Case

N.G. testified on his own behalf. On the day of the incident, after N.G. met J.E. at a convenience store, J.E. said he needed to get something from a friend's house, and N.G. went with J.E. to what looked like an apartment nearby. J.E. knocked and knocked on the door for more than 10 minutes. He saw J.E., who was wearing gloves, poke a hole through a window screen and put his arm through the window. A woman inside said, "What are you doing?" N.G. and J.E. then started running and went to A.P.'s house. As they were standing outside, N.G. became frightened when he heard a helicopter overhead. When his counsel asked why he was frightened, N.G. replied he was frightened because he knew "they were looking for us."

N.G. indicated he never intended to break into the woman's "house," he did not want to steal anything there, and he denied he was acting as a lookout for J.E. when J.E. put his gloved hand through the window. When asked on cross-examination whether he changed his clothes at A.P.'s house, N.G. testified he was wearing two shirts—a black shirt over a white one—and he took off the black shirt at A.P.'s house.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v.*

California (1967) 386 U. S. 738, counsel refers to the following as a possible, but not arguable, issue: Did the court abuse its discretion in sustaining the petition and determining the allegations against N.G. were proved beyond a reasonable doubt?

We granted N.G. permission to file a supplemental brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436, and *Anders v. California*, *supra*, 386 U.S. 738, including the possible issue raised by appellate counsel, has disclosed no reasonably arguable appellate issue. The judgment is amply supported by substantial evidence. Although N.G. testified he did not intend to break into the victim's "house" and did not want to steal anything there, any rational trier of fact could reasonably find beyond a reasonable doubt that he was acting as a lookout for J.E. and thus aided and abetted the burglary. N.G. admitted he was with J.E. at the victim's condominium when J.E. knocked on the front door for more than 10 minutes. As the court found, most people would go about their business after knocking on a door for such an extended period of time and thinking no one was at home. N.G. admitted he walked from the front door to the kitchen window with J.E. and watched as J.E., who was wearing gloves, started to climb through the kitchen window after vandalizing and removing the screen. A.P.'s testimony that N.G. and J.E. became frightened outside A.P.'s house and covered their faces when the police helicopter started circling overhead supports a reasonable inference that N.G. was exhibiting consciousness of guilt. Such an inference is also supported by N.G.'s own testimony that he was frightened by the helicopter because he knew "they were looking for us," and that he took off his black

shirt, which the victim's testimony shows he had been wearing when he was with J.E. at the victim's condominium. N.G.'s additional testimony that he was wearing a white shirt underneath the black one supports a reasonable inference he anticipated the need for changing his appearance in a hurry in order to avoid being identified as one of the burglars.

Thus, we conclude the court did not abuse its discretion in sustaining the petition and determining that the allegations against N.G. were proved beyond a reasonable doubt. We also conclude N.G. has been adequately represented by counsel on this appeal. Accordingly, we affirm the judgment.

DISPOSITION

The judgment is affirmed.

NARES, J.

WE CONCUR:

BENKE, Acting P. J.

O'ROURKE, J